



January 23, 2004

SENATE BILL No. 362

DIGEST OF SB 362 (Updated January 21, 2004 6:35 pm - DI 14)

Citations Affected: IC 6-1.1; IC 15-7; IC 32-24; noncode.

Synopsis: Farmland protection program. Freezes the assessed value of land classified in the farmland protection program. Upon withdrawal from the classification, requires payment of the property taxes that would have been assessed to the land during the lesser of the period of classification or ten years, plus interest. Requires deposit of the property taxes in the farmland protection program account. Creates the farmland protection program to be administered by the Indiana land resources council. Creates the farmland protection program account.

Effective: July 1, 2004; January 1, 2005.

**Jackman, Ford, Drozda, Gard,
Skillman, Waterman**

January 12, 2004, read first time and referred to Committee on Agriculture and Small Business.

January 22, 2004, amended, reported favorably — Do Pass.

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January 23, 2004

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

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SENATE BILL No. 362

A BILL FOR AN ACT to amend the Indiana Code concerning agriculture and animals and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-1.1-6.9 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 3 JANUARY 1, 2005]:
- 4 **Chapter 6.9. Assessment of Classified Farmland**
- 5 **Sec. 1. As used in this chapter, "farmland" refers to land**
- 6 **classified in the farmland protection program under IC 15-7-10.**
- 7 **Sec. 2. As used in this chapter, "recapture period" means the**
- 8 **lesser of:**
 - 9 (1) the period of classification of land as farmland; or
 - 10 (2) the ten (10) year period immediately preceding the date on
 - 11 which land is withdrawn from the farmland classification.
- 12 **Sec. 3. As used in this chapter, "taxpayer" refers to the owner**
- 13 **of farmland.**
- 14 **Sec. 4. For each assessment date during the period of the**
- 15 **classification of land as farmland:**
 - 16 (1) the land is assessed using the lesser of:
 - 17 (A) the assessed value finally determined for the current

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year's assessment date; or

(B) the assessed value finally determined for the assessment date that next succeeds the date of the farmland classification under IC 15-7-10;

(2) assessing officials shall keep a record of the assessed value that would apply if the land were not classified as farmland;

(3) ditch assessments on the farmland shall be paid; and

(4) oil, gas, stone, coal, or other mineral wealth obtained from farmland shall be assessed and placed on the tax duplicate.

Sec. 5. The taxpayer shall record the approved application for farmland classification under IC 15-7-10 in the county recorder's office. After an approved application is properly recorded, the county auditor shall enter the farmland for taxation at the assessed value determined under section 4(1) of this chapter.

Sec. 6. If farmland is withdrawn from the farmland classification:

(1) the Indiana land resources council shall immediately notify the assessor, auditor, and recorder of the county in which the farmland is located that the farmland has been withdrawn; and

(2) the taxpayer shall make a notation of the withdrawal in the records of the county recorder.

Sec. 7. (a) If farmland is withdrawn, other than under IC 15-7-10-11, from the farmland classification, the taxpayer shall pay to the county treasurer an amount equal to the sum of:

(1) the remainder of:

(A) the total property taxes that, if it were not for the farmland classification, would have been assessed to the land during the recapture period; minus

(B) the total property taxes assessed to the farmland during the recapture period that were paid; plus

(2) interest on the property taxes determined under subdivision (1) at the rate of ten percent (10%) per year.

(b) Property taxes under subsection (a)(1) are determined using:

(1) the assessed value of the land as recorded under section 4(2) of this chapter; and

(2) the net tax rate for the taxing district in which the farmland is located;

for each year for which the property taxes are determined.

(c) The liability imposed by this section is a lien on the land withdrawn from the farmland classification. The county treasurer shall deposit collections under this section in the farmland

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1 protection program account established by IC 15-7-10-12. If the
 2 liability is not satisfied, the lien is treated in the same manner that
 3 delinquent taxes on real property are treated.

4 **Sec. 8. A conveyance of farmland does not release a person**
 5 **acquiring an interest in the land from an obligation or liability**
 6 **imposed under this chapter.**

7 SECTION 2. IC 15-7-10 IS ADDED TO THE INDIANA CODE AS
 8 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 9 1, 2004]:

10 **Chapter 10. Farmland Protection Program**

11 **Sec. 1. As used in this chapter, "assistant commissioner" refers**
 12 **to the assistant commissioner of agriculture appointed under**
 13 **IC 4-4-22-20.**

14 **Sec. 2. As used in this chapter, "council" refers to the Indiana**
 15 **land resources council established by IC 15-7-9-4.**

16 **Sec. 3. As used in this chapter, "designated area" refers to an**
 17 **area of land set aside under section 8(c) of this chapter in a county**
 18 **within which land may be designated as farmland eligible for the**
 19 **program.**

20 **Sec. 4. As used in this chapter, "farmland" includes the**
 21 **following:**

22 (1) Acreage used for the production of:

- 23 (A) food;
- 24 (B) feed;
- 25 (C) forage;
- 26 (D) fibre; and
- 27 (E) oilseed crops.

28 (2) Acreage used to raise:

- 29 (A) livestock;
- 30 (B) dairy animals;
- 31 (C) dairy products;
- 32 (D) poultry;
- 33 (E) poultry products; and
- 34 (F) furbearing animals.

35 (3) Acreage used to:

- 36 (A) grow horticultural and nursery stock;
- 37 (B) grow fruits;
- 38 (C) grow vegetables;
- 39 (D) grow forage;
- 40 (E) grow timber;
- 41 (F) grow trees;
- 42 (G) raise fish and other aquaculture products;

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- 1 (H) raise bees and apiary products; and
 2 (I) grow other crops used for agricultural income.
 3 (4) Areas including;
 4 (A) buildings;
 5 (B) land modifications;
 6 (C) wetlands;
 7 (D) pasture;
 8 (E) forest land;
 9 (F) wildlife land;
 10 (G) riparian areas;
 11 (H) buffers; and
 12 (I) other areas;
 13 that enhance or depend on the inherent productivity of the
 14 land.
 15 Sec. 5. As used in this chapter, "livestock" has the meaning set
 16 forth in IC 4-4-3.2-1(b).
 17 Sec. 6. As used in this chapter, "program" refers to the
 18 farmland protection program established by section 7 of this
 19 chapter.
 20 Sec. 7. The farmland protection program is established to
 21 provide a voluntary tool to Indiana landowners to protect and
 22 conserve rural lands, including the following:
 23 (1) Farmland.
 24 (2) Other rural natural areas as defined by the council.
 25 Sec. 8. (a) The council shall administer the program. The council
 26 shall work with local agencies and organizations to establish a
 27 cooperative relationship in land use practices and policies. The
 28 council, after consulting with local agencies and organizations,
 29 shall develop specific program guidelines and policies to administer
 30 the program. The program must be compatible with the federal
 31 Farm and Ranch Land Protection Program (7 CFR 1491).
 32 (b) The council may adopt rules under IC 4-22-2 to implement
 33 the program.
 34 (c) The council, working with local agencies and organizations,
 35 shall establish criteria for designated areas of land on a county by
 36 county basis. Only land within a designated area is eligible for the
 37 program. Before establishing an area as a designated area, the
 38 council shall hold a hearing in the county in which the land is
 39 located. The council shall follow the procedures for public hearings
 40 under IC 5-14-1.5-5. The council shall obtain the approval of the
 41 local zoning authority having jurisdiction over the designated area,
 42 or, if the designated area does not lie within the jurisdiction of any

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1 local zoning authority, the county commissioners of the county in
 2 which the designated area is located, before designating an area as
 3 a designated area for purposes of this chapter.

4 (d) The council shall establish criteria for evaluating
 5 applications for the program, including the following:

6 (1) Land must have been in an agriculture production or
 7 conservation program at the time of application and for five
 8 (5) years before the application.

9 (2) Land must be in a designated area.

10 (3) Land in:

11 (A) a locally recognized agricultural district;

12 (B) an agricultural protection zone;

13 (C) an agricultural security area; or

14 (D) any effective local agricultural protection initiative;

15 shall be given higher consideration.

16 (4) At least thirty-five (35) acres of working land must be
 17 located within an agricultural area with not more than one (1)
 18 residence on a single or combined tract to meet acreage
 19 requirements with either single or multiple owners.

20 (5) Larger tracts must be given priority.

21 (6) A scoring system similar to the federal Farm and Ranch
 22 Land Protection Program (7 CFR 1491) shall be developed.
 23 There shall be a minimum score requirement to qualify for
 24 the program, including standards on:

25 (A) soil erosion;

26 (B) conservation plans with the federal Natural Resources
 27 Conservation Service's quality criteria;

28 (C) landowner participation; and

29 (D) management plans.

30 (e) A consistent lack of compliance with environmental permits
 31 and requirements shall disqualify a landowner from the program.

32 (f) Applications must be received by the council by January 1 of
 33 each year, beginning January 1, 2005. Contracts must be entered
 34 into by March 1 of each year, beginning March 1, 2005.

35 (g) The council may reject an application for the program if the
 36 council finds that the parcel proposed for protection was divided
 37 from a larger parcel in a transaction intended to defeat the
 38 purposes of the program.

39 Sec. 9. (a) A landowner may enroll in the program by entering
 40 into a contract with the council for a period of ten (10) years, with
 41 an unlimited number of automatic renewal periods of five (5) years
 42 each. A landowner may give notice to the state of the landowner's

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intention to terminate the contract at the end of the contract period. If a landowner is going to terminate the contract, the landowner must give six (6) months advance notice before the expiration date of the contract.

(b) Contract conditions run with the land and must be recorded.

(c) During the term of the contract, one (1) residential building lot may be split from the root parcel (which includes all contiguous property under substantially common ownership at the time of enrollment in the program) if the residential building lot is used for the residence of an individual who is farming the land.

(d) A split may not be made from the root parcel for manufacturing, industrial, or commercial lots unless the split is in keeping with the purpose, principles, and objectives of the program.

Sec. 10. When a county government, local planning commission, or other local entity engaged in planning for a local community has developed standards for the preservation of farmland, the council shall consider the standards when evaluating applications.

Sec. 11. (a) A landowner may withdraw from the program when proposing to enroll in an alternate land protection program of equal or greater time period and conditions.

(b) An early withdrawal, except under subsection (a), from the contract shall result in the loss of and pay back of any incentive received from the program.

(c) Any violation of the contract shall disqualify the farmland or the landowner from enrolling in the program for ten (10) years after the time of confirmation of the violation.

Sec. 12. (a) The farmland protection program account is established within the state general fund for the purpose of providing money to match federal funds under 7 CFR 1491 to be used for the protection of farmland in Indiana. The account shall be administered by the council.

(b) The account consists of:

- (1) money collected under IC 6-1.1-6.9-7;
- (2) gifts and bequests; and
- (3) grants.

(c) The expenses of administering the account shall be paid from money in the account.

(d) The treasurer of state shall invest the money in the account not currently needed to meet the obligations of the account in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the account.

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(e) Money in the account at the end of a state fiscal year does not revert to the state general fund.

(f) Money in the account may be spent only after appropriation by the general assembly.

Sec. 13. Owners of land in the program shall be given priority for state grants or technical assistance given by the commissioner of agriculture or the department of commerce.

SECTION 3. IC 32-24-1-5.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 5.4. (a) For purposes of this section, "protected farmland" means land that is:**

(1) included in an area designated as protected by the Indiana land resources council under IC 15-7-10-8(c); and

(2) covered under a contract between the Indiana land resources council and the landowner under IC 15-7-10-9.

(b) If land being condemned under this article is designated as protected farmland under a contract entered into under IC 15-7-10-9, the damages offered by the condemnor shall be two hundred percent (200%) of:

(1) the fair market value offered under section 5 of this chapter; or

(2) the award made by a court under this article.

(c) This section does not apply to land that is being condemned for:

(1) a highway;

(2) a road;

(3) a street; or

(4) a right-of-way under IC 32-24-4-1.

SECTION 4. [EFFECTIVE JANUARY 1, 2005] IC 6-1.1-6.9, as added by this act, applies only to property taxes first due and payable after December 31, 2005.

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SENATE MOTION

Madam President: I move that Senators Drozda and Gard be added as coauthors of Senate Bill 362.

JACKMAN

SENATE MOTION

Madam President: I move that Senator Skillman be added as coauthor of Senate Bill 362.

JACKMAN

SENATE MOTION

Madam President: I move that Senator Waterman be added as coauthor of Senate Bill 362.

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COMMITTEE REPORT

Madam President: The Senate Committee on Agriculture and Small Business, to which was referred Senate Bill No. 362, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 5, line 3, delete "The decision that an".

Page 5, delete lines 4 through 5.

Page 7, line 5, delete "is continuously appropriated to the" and insert "**may be spent only after appropriation by the general assembly.**".

Page 7, delete line 6.

and when so amended that said bill do pass.

(Reference is to SB 362 as introduced.)

NUGENT, Chairperson

Committee Vote: Yeas 5, Nays 1.

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